

### REMARKS

In view of the following remarks, Applicant respectfully submits the August 4, 2006 Office Action incorrectly read the claim language and thus, could not properly examine the claims. Accordingly, Applicant respectfully requests that the finality of the Office Action be withdrawn and prosecution of the instant application be re-opened.

Claims 1, 3, 4, 5, 17, 18, 56, 57, 58, 59, 60, and 61 are pending.

### Rejections Withdrawn

Applicant kindly thanks the Examiner for withdrawing the previous claim rejections under 35 U.S.C. § 112, second paragraph, in light of the claim amendments and remarks made in Applicant's Response filed on April 14, 2006.

### Rejection Under 35 U.S.C. § 102(e)

Claims 1, 3, 57, and 60 stand rejected as allegedly being anticipated by U.S. Patent No. 6,090,911. The Action alleges that claim 1 of the instant application is drawn to a fusion protein, the polyanionic domain comprised of (Ala Gly)<sub>0-8</sub> – (Glu Gly)<sub>1-40</sub>, and claim 57 allegedly being a fusion protein, the polyanionic domain comprised of (Ala-Gly)<sub>0-8</sub> – (Pro Asp Gly)<sub>1-40</sub> or (Ala Gly)<sub>0-8</sub> – (Asp Gly)<sub>1-40</sub>.

Applicant respectfully traverses this rejection and submits the Action has not correctly read the format of the claims. For example, claim 1 recites a fusion protein comprising a polyanionic domain with the formula [ (SEQ ID NO:1)<sub>x</sub>- SEQ ID NO:2]<sub>n</sub> wherein x is 5, 6, 7 or 8 and n is an integer between 1 and 4, or [(SEQ ID NO:1)<sub>y</sub> – SEQ ID NO:6]<sub>m</sub>, wherein y is 0, 1, 2, 3, 4, 5, 6, 7 or 8 and m is an integer between 1 and 40, and wherein SEQ ID NO:1 is Ala-Gly, SEQ ID NO:2 is Pro-Glu-Gly and SEQ ID NO:6 is Glu-Gly.

Turning to the first half of the claim for simplicity, substituting the recited amino acid symbols for the proper SEQ ID NOs, and substituting the actual integers for the recited x, or n variable leads to the following formula: [(Ala-Gly)<sub>5-8</sub> Pro-Glu-Gly]<sub>1-4</sub>. The Action has incorrectly stated this formula as (Ala-Gly)<sub>5-8</sub> (Pro-Glu-Gly)<sub>1-4</sub>, which is not equivalent to the formula recited in claim 1. Applicant points out that the Action incorrectly separated the

grouping of SEQ ID NOs that were enclosed in brackets “[ ]” and improperly applied the integer n only to SEQ ID NO: 2 (Pro-Glu-Gly), rather than applying the integer n to the entire grouping of [(Ala-Gly)<sub>5-8</sub> Pro-Glu-Gly]<sub>1-4</sub>. Thus, Applicant submits that (Ala-Gly)<sub>5-8</sub> (Pro-Glu-Gly)<sub>1-4</sub>, which is misstated by the Action is not the same as [(Ala-Gly)<sub>5-8</sub> Pro-Glu-Gly]<sub>1-4</sub>, which is recited in claim 1. Applicant submits all of the formulas in the rejected claims are misread in this same manner.

Applicant submits that according to the proper reading of the formula, the integers n or m refer to the grouping of potentially multiple repetitions of SEQ ID NO:1 (which is further modified by the integer x or y) and only one SEQ ID NO: 2 or SEQ ID NO:6 within each group.

As further clarification, Applicant submits one exemplary species encompassed by claim 1 would include x = 5 and n = 2. Under the proper reading of the formula presented in claim 1, this species would read:

**Ala-Gly Ala-Gly Ala-Gly Ala-Gly Ala-Gly Pro-Glu-Gly Ala-Gly Ala-Gly Ala-Gly Ala-Gly Ala-Gly Pro-Glu-Gly,**

i.e. SEQ ID NO:1 (Ala-Gly) is repeated 5 times within the grouping, and the entire grouping [(SEQ ID NO:1) SEQ ID NO:2] is repeated 2 times.

If the claim formula ignored the “[ ]” and read as the Action incorrectly states, when x = 5 and n = 2 in claim 1, the species would instead read:

**Ala-Gly Ala-Gly Ala-Gly Ala-Gly Ala-Gly Pro-Glu-Gly Pro-Glu-Gly,**

ie. SEQ ID NO:1 (Ala-Gly) is repeated 5 times, and SEQ ID NO:2 (Pro-Glu-Gly) is repeated 2 times, irrespective of the grouping. Clearly, these are not the same polypeptides.

In light of the correct reading of the claims, Applicant respectfully submits that U.S. Patent No. 6,090,911 does not anticipate the instant claims. Accordingly, Applicant respectfully requests this rejection be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

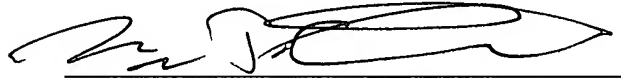
All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. Should the Examiner believe there to be any outstanding issues related to the claims, or have further questions

Application No. 10/015,956  
Reply to Office Action dated August 4, 2006

regarding the proper reading of the claims, she is encouraged to contact the undersigned representative.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

A handwritten signature in black ink, appearing to read 'W. T. Christiansen', written over a horizontal line.

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